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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement* submitted by the International Centre for Human Rights and Democratic Development, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 January 2000]

* This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

The International Centre for Human Rights and Democratic Development urges the UNCHR to make global and regional trade agreements coherent with the UN Charter and the International Bill of Human Rights.

The United Nations Charter and Human Rights Treaties should prevail over global and regional trade agreements.

1.While global and regional trade agreements such as the World Trade Organization (WTO), and the North America Free Trade Agreement (NAFTA) have resulted in increased trade and wealth; they have also contributed to the reduction of social programs, labour standards and trade unions, resulting in greater inequality in the distribution of wealth, a growing gap between rich and poor, and a declining middle class.

2. These global and regional trade agreements are enforced by States and trade organizations with little or no consideration of their obligations under the UN Charter, the International Covenant on Economic, Social and Cultural Rights and other UN and International Labour Organization (ILO) conventions which most of these States have ratified.

3. The UN Charter in Article 1(3) states the following purposes:

> "To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion";

and Article 1(4) which states:

"To be a Centre for harmonizing the actions of nations in the attainment of these common ends".

4. These articles are more specifically supported by UN Charter Articles 13(b), 55(c), and 62(2).

5. Finally Article 103 of the UN Charter states that «In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail».

6. Furthermore Article XX of the General Agreement on Tariffs and Trade (GATT) provides that nothing in the GATT «shall be construed to prevent the adoption or enforcement by any contracting party of measures» *inter alia*, «necessary to protect public morals», «necessary to protect human, animal or plant life or health,» and «relating to the products of prison labour», which are social considerations that go beyond pure trade matters.

7. The Preamble to the Marrakech Agreement (1994) establishing the WTO, states the fundamental goals of the WTO, which include "raising standards of living" and a "commitment to sustainable development" – also social considerations.

8. Unfortunately these social provisions in Article XX of GATT and in the Preamble of the Marrakech Agreement have either been interpreted in a very restrictive way or totally ignored in the operation of the WTO and its panels - despite:

a. the provisions of Article 31 of the Vienna Convention on the Law of Treaties which states that a treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose, and

b. the provisions of Article 3 of the Dispute Settlement Understanding of the WTO – which state that customary rules of interpretation in international law apply to settlement of disputes within the WTO.

9. Consequently the WTO should be interpreting its mandate more consistently with the broader spirit of Article XX of GATT and the Marrakech Preamble.

10. Finally Article XXIII(2) of the GATT, and Article V of the Marrakech Agreement provide for the participation of other intergovernmental organizations and NGOS in WTO deliberations which participation at present is virtually non-existent. Such participation would provide for a wider input into WTO decisions and policy.

11. At the moment there is no UN authority or process of governance which has a mandate to assure coherence between the obligations of States under the UN Charter, the Human Rights

Conventions and Trade Treaties.

CONCLUSION The International Centre for Human Rights and Democratic Development urges the UNCHR to initiate steps to establish an authority or system of governance to establish coherence between the obligations of States under the UN Charter, the International Bill of Rights and international trade agreements.

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